

ANN BAVENDER\*  
ANNE GOODWIN CRUMP\*  
VINCENT J. CURTIS, JR.  
RICHARD J. ESTEVEZ  
PAUL J. FELDMAN\*  
ERIC FISHMAN\*  
RICHARD HILDRETH  
FRANK R. JAZZO  
ANDREW S. KERSTING\*  
KATHRYN A. KLEIMAN  
EUGENE M. LAWSON, JR.  
HARRY C. MARTIN  
J. TODD METCALF\*  
GEORGE PETRUTSAS  
LEONARD R. RAISH  
JAMES P. RILEY  
KATHLEEN VICTORY\*  
HOWARD M. WEISS

\* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET  
ROSSLYN, VIRGINIA 22209-3801

(703) 812-0400

TELECOPIER

(703) 812-0486

INTERNET

office@fhh-telcomlaw.com

FRANK U. FLETCHER  
(1939-1985)  
ROBERT L. HEALD  
(1956-1983)  
PAUL D. P. SPEARMAN  
(1936-1962)  
FRANK ROBERSON  
(1936-1961)  
J. L. ROWELL  
(1948-1977)

RETIRED  
EDWARD F. KENEHAN

CONSULTANT FOR INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
SHELDON J. KRYS  
U. S. AMBASSADOR (ret.)

OF COUNSEL  
EDWARD A. CAINE\*

WRITER'S NUMBER  
(703) 812-

DOCKET FILE COPY ORIGINAL

RECEIVED

APR 21 1997

Federal Communications Commission  
Office of Secretary

0474

April 21, 1997

**BY HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

Re: Comments of Bott Communications, Inc.  
MM Docket No. 97-86; RM-9025  
Camdenton, Missouri

Dear Mr. Caton:

Transmitted herewith on behalf of Bott Communications, Inc., are an original and four copies of its Comments and Counterproposal in the above-captioned proceeding in support of the allotment of Channel 265C3 to Laurie, Missouri, in lieu of the allotment of Channel 265A to Camdenton, Missouri, as proposed in *Notice of Proposed Rule Making*, DA 97-414 (released February 28, 1997).

Should any questions arise concerning these comments, please communicate directly with the undersigned.

Very truly yours,



Andrew S. Kersting  
Counsel for Bott Communications, Inc.

Enclosures  
cc (w/ encl.): Certificate of Service

No. of Copies rec'd  
List ABCDE

0474

DOCKET FILE COPY ORIGINAL RECEIVED

BEFORE THE

**Federal Communications Commission**

APR 21 1997

WASHINGTON, D.C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations  
(Camdenton, Missouri)

)  
)  
)  
)  
)  
)

MM Docket No. 97-86  
RM-9025

To: Chief, Allocations Branch

**COMMENTS AND COUNTERPROPOSAL**

Bott Communications, Inc. ("Bott"), by counsel, hereby submits its comments and counterproposal in response to the Commission's *Notice of Proposed Rule Making*, DA 97-414 (released February 28, 1997) ("*NPRM*"), in the above-captioned proceeding. As set forth below, Bott respectfully requests that the following change be made to Section 73.202(b) of the Commission's rules in lieu of the change proposed in the *NPRM*:

**Channel No.**

<b><u>City</u></b>	<b><u>Present</u></b>	<b><u>Proposed</u></b>
Laurie, Missouri	- - -	265C3

No change in the existing allotments is requested. In support of this request, the following is stated:

The Commission issued its *NPRM* in response to a proposal by Camdenton Community Broadcasters to amend the FM Table of Allotments by allotting Channel 265A to Camdenton, Missouri. As noted in the *NPRM*, with a site restriction of 2.9 kilometers north of Camdenton, the proposed allotment can be accomplished in accordance with the Commission's rules, and would

provide the community of Camdenton with its first local commercial FM service.<sup>1</sup> Nevertheless, Bott proposes, instead, that the Commission allot Channel 265C3 to Laurie, Missouri, which would provide the community of Laurie with its first local aural transmission service.

The city of Laurie, Missouri, is an incorporated community with a 1990 U.S. Census population of 507.<sup>2</sup> Laurie is a rapidly growing community whose population increased 229% during the period from 1980 to 1990.<sup>3</sup> Laurie has its own bank, post office, and zip code. *Id.* The community maintains its own municipal government consisting of a Board of Directors. Public safety services are provided by the Laurie Police Department, which employs six full-time officers and several reserve officers that are utilized on a seasonal basis. Fire protection is provided by the Gravois Fire Protection District which maintains a fire station in Laurie. Medical services are provided to Laurie and the surrounding communities by the Laurie Clinic.

In addition, Laurie has numerous civic organizations, including the Lyons Club, the Elks Club, and a Rotary Club. Laurie also is served by the Lake West Chamber of Commerce, which is designed to promote growth in the area.

As demonstrated in the attached engineering exhibit, from an assumed transmitter site at the specified reference coordinates, there is an open area in which a suitable transmitter facility may be located that meets the minimum separation requirements with respect to all known licenses,

---

<sup>1</sup> Station KCVO-FM, Channel 219C3, is licensed to Camdenton, Missouri. The allotment of Channel 219C3 at Camdenton does not appear in the FM Table of Allotments set forth in Section 73.202(b) of the Commission's rules because Station KCVO-FM is a noncommercial facility. See *NPRM* at ¶3, n.3.

<sup>2</sup> Source: *Rand McNally Commercial Atlas & Marketing Guide*, p. 405 (127th ed.) (1996).

<sup>3</sup> According to the 1980 U.S. Census, Laurie had a population of only 154. *Id.*

construction permits, open allotments, pending applications, and pending rulemakings. The specified transmitter reference coordinates are located only 7.0 kilometers south of Laurie which will enable the proposed station to provide a city-grade signal to its community of license. See Engineering Statement, p. 2.

As stated above, the allotment of Channel 265C3 will provide Laurie with its first local transmission service, which will promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of broadcast stations among the various states and communities.<sup>4</sup> In addition, the proposed allotment will promote the third allotment priority established in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 91 (1982), whereas the allotment of Channel 265A at Camdenton would serve only the fourth allotment priority.<sup>5</sup> Indeed, the Commission has repeatedly held that the allotment of a first local service is entitled to a preference over the allotment of a channel to a community which already has one local FM station.<sup>6</sup> See, e.g., *El Rio and Ojai, California*, 6 FCC Rcd 5547, 5548 (Chief, Allocations Branch 1991), citing *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d at 91.

---

<sup>4</sup> 47 U.S.C. §307(b). See *National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing a goal of the Communications Act to “secure the maximum benefits of radio to all the people of the United States); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955) (describing a goal of Section 307(b) to “secure local means of expression”).

<sup>5</sup> The criteria for determining the comparative preferability of a proposed FM allotment are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. 90 FCC 2d at 91.

<sup>6</sup> Noncommercial educational stations such as Station KCVO-FM, Camdenton, Missouri, are included in transmission service analysis under Section 307(b). *Valley Broadcasters, Inc.*, 5 FCC Rcd 2785, 2788 (1990).

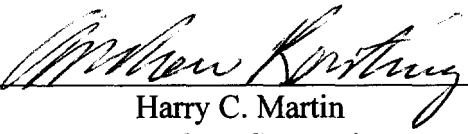
Furthermore, the attached engineering exhibit establishes that a grant of this counterproposal also would serve the public interest because it would bring a new service to a substantially larger population and area than the proposal set forth in the *NPRM*. The 60 dBu contour of Camdenon Community Broadcasters' proposal encompasses 37,250 persons within an area of 2,530 square kilometers (sq. km). On the other hand, the 60 dBu contour of Bott's counterproposal to allot Channel 265C3 at Laurie would cover 56,533 persons in an area consisting of 4,592.5 sq. km. This represents an increase of 51.8% in population and 81.5% in area. *See Engineering Statement, p. 3.*

In the event this counterproposal is granted and the FM Table of Allotments is amended to allot Channel 265C3 at Laurie, Missouri, Bott will file an application for a construction permit for the Class C3 facility, and, upon grant of its application, promptly construct the new station.

WHEREFORE, in light of the foregoing, Bott Communications, Inc. respectfully requests the Commission to GRANT this counterproposal and AMEND the FM Table of Allotments by ALLOTING Channel 265C3 to Laurie, Missouri.

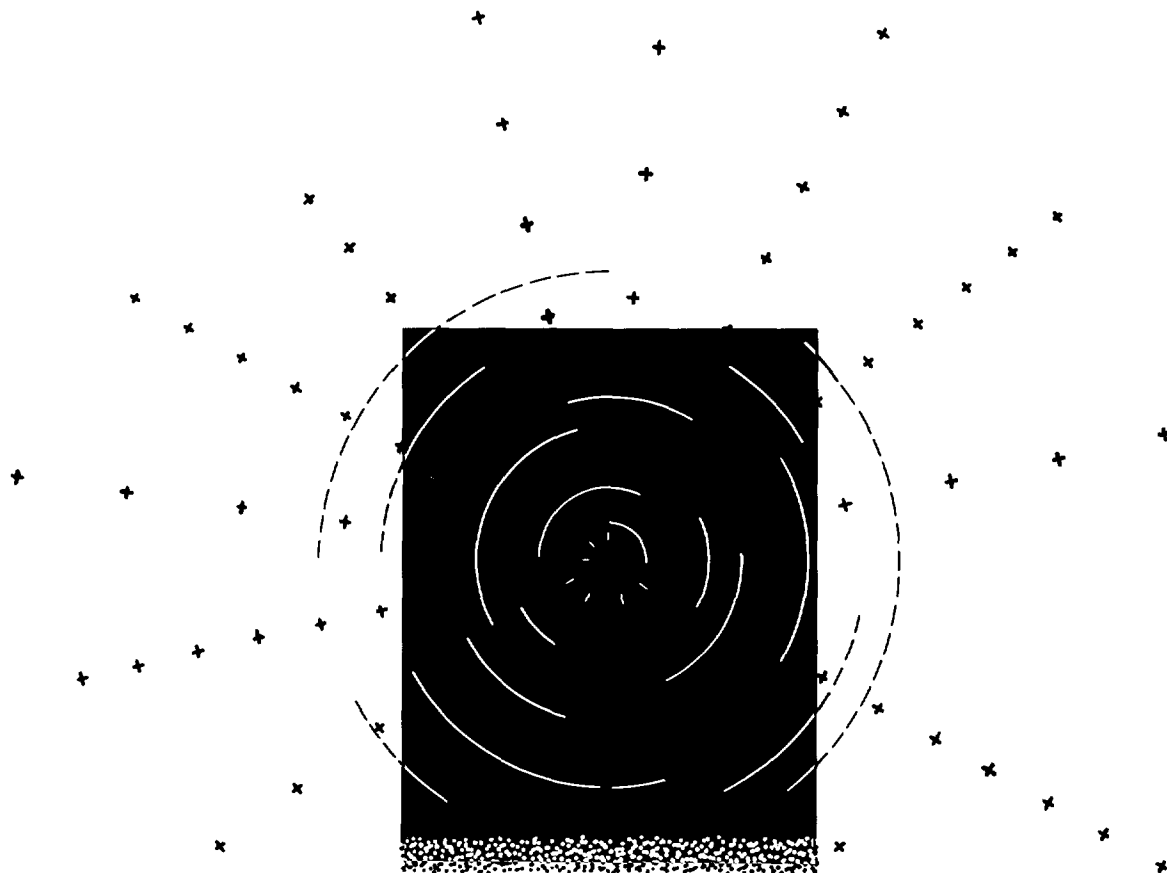
Respectfully submitted,

BOTT COMMUNICATIONS, INC.

By:   
Harry C. Martin  
Andrew S. Kersting

Its Counsel

Fletcher, Heald & Hildreth, P.L.C.  
1300 N. Seventeenth Street, 11th Floor  
Roanoke, Virginia 22209



WHEELER  
**BROADCAST**  
CONSULTING

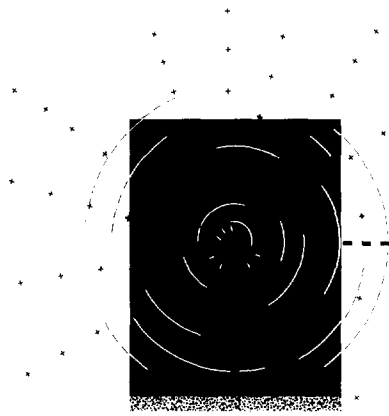
***Bott Communications, Inc.***

**Counterproposal to RM-9025**

**Petition to:**

**Amend 47 CFR 73.202(b)  
Allocate a New Commercial FM Broadcast Station  
Channel 265 C3  
Laurie, Missouri**

**April - 1997**



# WHEELER BROADCAST CONSULTING

## ***Engineering Report***

### ***Counterproposal to RM-9025***

This consultant has been retained by Bott Communications, Inc. for the purpose of reviewing RM-9025, Docket 97-86, and providing technical support to a counterproposal to the same.

In RM-9025 the proponents, Camdenton Community Broadcasters (CCB), propose to amend 47 CFR 73.202(b) to allocate channel 265A to Camdenton. In support of their proposal they state that the proposed allocation would be the "first local broadcast service<sup>1</sup>". This statement is indeed false as station KCVO is licensed with Class C3 FM facilities in Camdenton, Missouri. The petitioners further state that the proposed facility would serve a population of 37,250 persons and encompass an area of 2,530 km<sup>2</sup>. On behalf of Bott Communications, Inc. this consultant has identified an alternate community, Laurie, Missouri, to which Class C3 facilities could be allocated on Channel 265 with a slight, 7.0 km South, site restriction and service could be provided to a much larger population and a larger area.

The coordinates of Laurie, Missouri are listed in the National Atlas of the United States of America as follows:

6025 MARTWAY  
SUITE 112  
MISSION, KS 66202  
913.362.7282  
913.362.7287

38° 12' 13" N. Latitude  
92° 49' 45" W. Longitude

Reference coordinates for the proposed channel 265 C3 were determined by selecting the point, on land, nearest to Laurie while meeting the minimum separation requirements set forth in 47 CFR 73.207.

---

<sup>1</sup> See petition for rulemaking at § I (A)(1).

The reference coordinates calculated for the Laurie, Channel 265 C3, allocation are:

38° 08' 30" N. Latitude  
92° 50' 37" W. Longitude

The distance and bearing from Laurie to the Channel 265 C3 reference coordinates is 7.0 km at 190.4° True. Exhibit 1 of this report is a search of the Commission's March 9, 1997 FM database which demonstrates that the site meets all minimum separation requirements, save the CCB proposal, from the proposed reference site. Exhibit 2 is a digitally generated map, generated from USGS and NGDC data, which indicates the reference site, the open area in which to locate a suitable transmitter facility, and the predicted 70 dbu contour from the reference coordinates indicating compliance with the principal community coverage requirements of 47 CFR 73.315. Exhibit 4 of this report is a copy of the relevant portion of the Sunrise Beach, MO USGS 7½' topographic quadrangle that shows the proposed allocation reference site.

### **Laurie, Missouri**

Laurie Missouri is an incorporated municipality that was incorporated, by charter, in 1966. The population of Laurie is 507 persons according to the 1990 US Census. Laurie has a post office with its own zip code, 65038. Laurie, Missouri maintains an independent local government with a Chairman of the Board and Board of Directors form of municipal government.

Public safety services are provided to Laurie by the Laurie Police Department which employs 6 full time officers and numerous reserve officers that are utilized on a seasonal basis. Fire protection is provided by the Gravois Fire Protection District which maintains a fire station in Laurie. The medical needs of Laurie and the surrounding communities is provided for by the Laurie Clinic. Laurie has numerous civic organizations including the Lyons Club, the Elks Club, and a Rotary Club. The area does have a consolidated Chamber of Commerce, the Lake West Chamber of Commerce, to promote area growth.

Laurie is a growing community, the population increase from 1980 to 1990 was from 154 persons to the present 507 persons, an increase of 229%.



### **Comparative Service**

The Channel 265 A facilities proposed by CCB, according to the figures presented in their petition, would serve a population of 37,250 persons and encompass an area of 2,530 km<sup>2</sup>. The Channel 265 C3 facilities proposed herein by Bott Communications, Inc. would provide 60 dBu service to a substantially larger area and population. The population served, from a hypothetical Class C3 facility located at the reference coordinates would be 56,533 persons, an increase of 51.8%, and an area of 4592.5 km<sup>2</sup>, an increase of 81.5%.

The Commission's allocation priorities<sup>2</sup> are as follows:

- 1) First Fulltime Aural Service.
- 2) Second Fulltime Aural Service.
- 3) First Local Service.
- 4) Other Public Interest Matters.

The proposed Laurie, Missouri substitution prevails as it provides a first local service (priority 3) and a new service to a larger population (priority 4) than does the proposed Camdenton, Missouri Class A allocation. Exhibit 3 of this report compares the relative 60 dBu service contours of the CCB Camdenton, MO allocation and the proposed Laurie, MO substitution.

### **Methodology**

All information for FM facilities was gleaned from the March 9, 1997 release of the Commission's FM database. All height above average terrain calculations were based on 8 cardinal radials as set forth in 47 CFR 73.313 and terrain data was extracted by a linear interpolation of the NGDC 30 second terrain database. Predicted service contours were based on 360 evenly spaced radials and population determinations were based on a digital overlay of minor civil subdivision data as provided by the PL-94-171 census data files. The census files draw data from the 1990 US Census and the algorithm assumes uniform population distribution when only a portion of a minor civil subdivision is encompassed. Determinations of service were based on the 60 dBu contours of the respective facilities.

---

<sup>2</sup> See 90 FCC 2d 88, 91 (1982)

### **Conclusion**

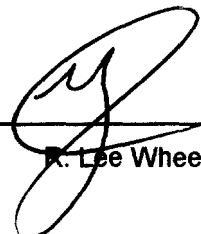
Based on the above we find that the public interest would be best served by allocating Channel 265 C3 to Laurie, Missouri as its first local service. The proposal is as follows:

<u>City</u>	<u>Present</u>	<u>RM-9025</u>	<u>Counterproposal</u>
Camdenton, MO	219 C3 <sup>3</sup>	219 C3, 265 A	219 C3
Laurie, MO	-----	-----	265 C3

### **Certification**

All information contained in this report is true and accurate to the best of my belief. Having had numerous matters before the Commission, my qualifications are a matter of record.

4/2/17  
Date

  
R. Lee Wheeler

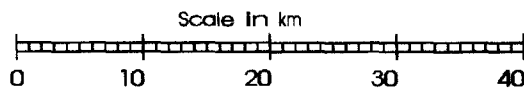
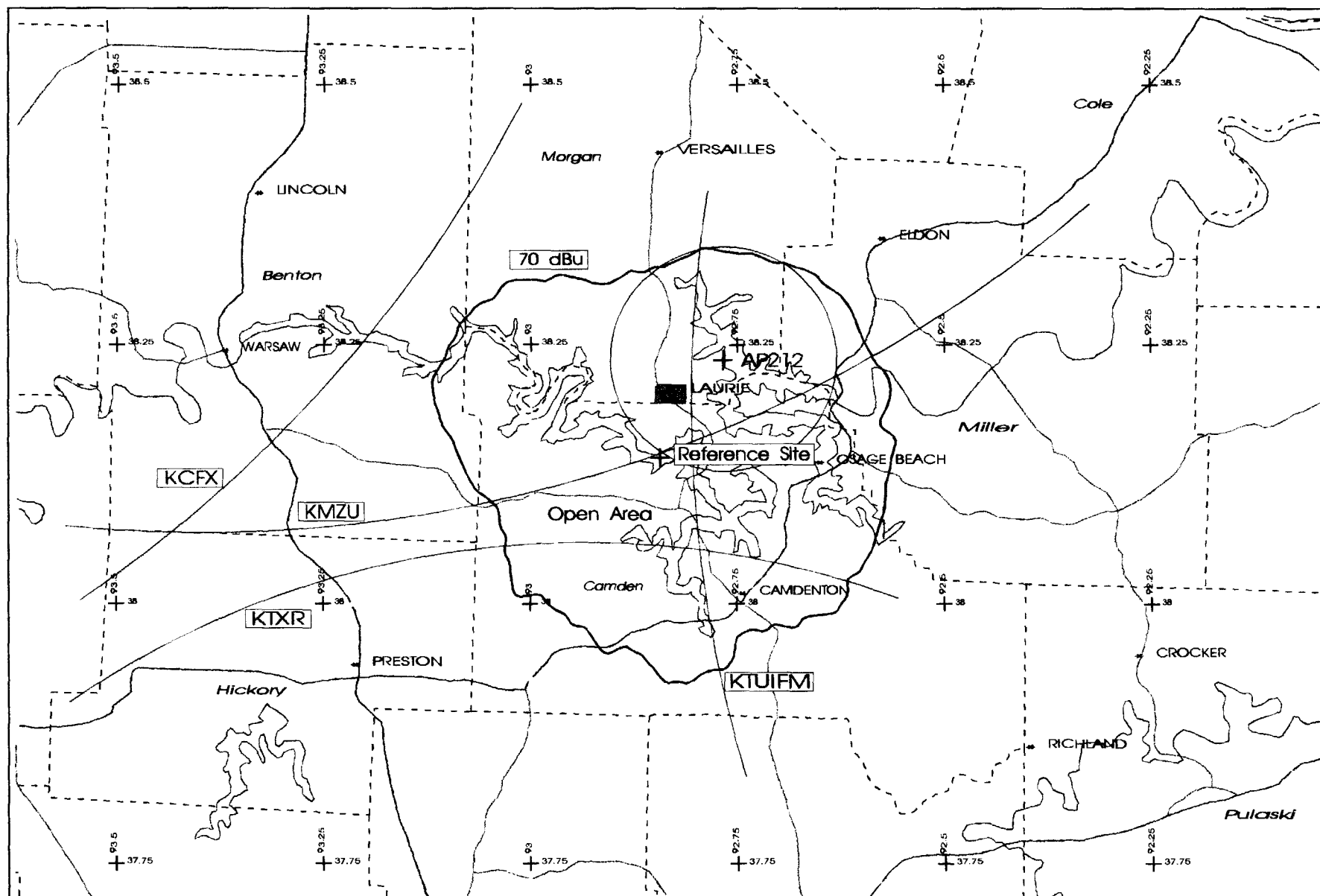
<sup>3</sup> Channel 219 C3, KCVO, is not included in 47 CFR 73.202(b) as it is a non commercial facility.

WHEELER BROADCAST CONSULTING  
6025 Martway - Suite 112 - Mission KS 66202

Bott Communications, Inc.  
Laurie, Missouri

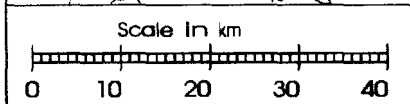
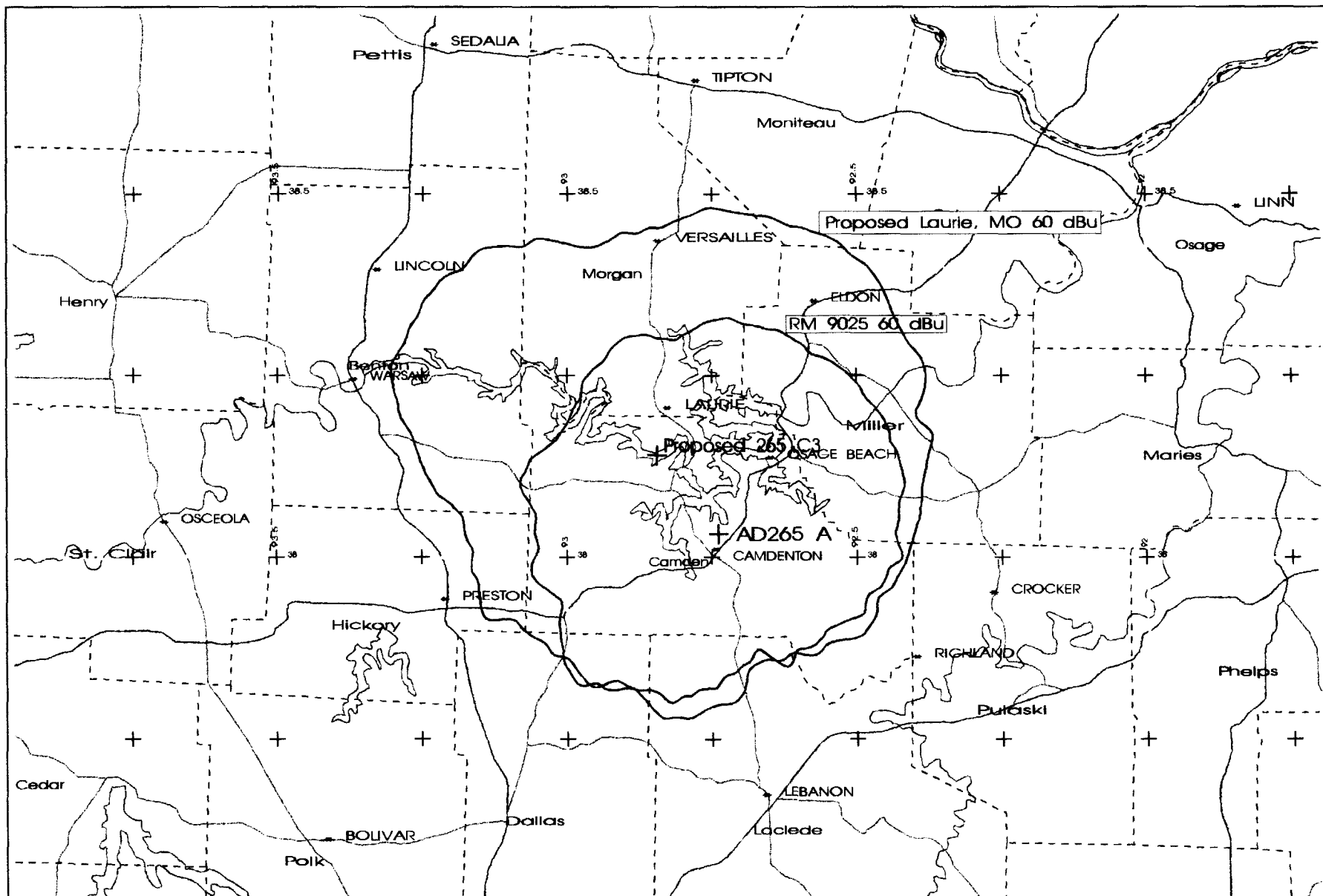
REFERENCE		DISPLAY DATES
38 08 30 N	CLASS C3	DATA 03-10-97
92 50 37 W	Current rules spacings	SEARCH 03-11-97
----- CHANNEL 265 -100.9 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD265	265A	Camdenton	MO	142.7	15.13	142.0	-126.87 *
AD	38 02 00	92 44 20	0.000 kW	0M	9.4	88.3	
Camdenton Community Broadcast					RM9025		970203
>Site Restriction 2.9km North							
KMZU	264C1	Carrollton	MO	340.6	144.40	144.0	0.40 <
LI CN	39 21 59	93 24 12	99.000 kW	302M	89.8	89.5	
Kanza, Inc.					BLH900917KA		
AP212	212A	Sunrise Beach	MO	32.3	12.45	12.0	0.45 <
AP VN	38 14 11	92 46 03	3.800 kW	60M	7.7	7.5	
Community Broadcasting, Inc.					BPED970110MA		
>Vertical Polarization Only							
KTUIFM	265A	Sullivan	MO	87.1	145.32	142.0	3.32
LI CN	38 11 42	91 11 12	3.000 kW	84M	90.3	88.3	
Four Rivers Broadcasting Co.					BLH810223AG		
KTXR	267C	Springfield	MO	184.4	105.44	96.0	9.44
LI CY	37 11 40	92 56 04	100.000 kW	360M	65.5	59.7	
Stereo Broadcasting, Inc.					BLH920625KB		
KPLA.A	268C1	Columbia	MO	31.1	97.06	76.0	21.06
AP ZCN	38 53 16	92 15 48	95.000 kW	145M	60.3	47.2	
Columbia FM, Inc.					BPH930813IC		
>From Channel 268C2 per D89-558							
KPLA.C	268C2	Columbia	MO	33.3	86.53	56.0	30.53
CP ZCN	38 47 28	92 17 43	20.000 kW	184M	53.8	34.8	
Columbia FM, Inc.					BPH890921ID	921027	
>*To Channel 268C1 per D89-558-From Channel 269A per D86-103							
ALOPEN	268C1	Columbia	MO	20.0	107.47	76.0	31.47
AL N	39 03 00	92 25 00	0.000 kW	0M	66.8	47.2	
>Effective 5-15-92-Reserved for KARO per D90-527							
KCFX	266C1	Harrisonville	MO	306.5	176.46	144.0	32.46
LI EN	39 04 24	94 29 06	97.000 kW	303M	109.7	89.5	
KCFX-FM, Inc.					BLH900917KC		



Proposed Laurie Missouri Allocation Ch. 265 C3  
N. Lat. 38 08 30 W. Lng. 92 50 37

EXHIBIT 2  
L. WHEELER - 03/97



Comparative 60 dBu Service Contours  
 N. Lat. 38 08 30 W. Long. 92 50 37

EXHIBIT 3  
 L. WHEELER - 03/97



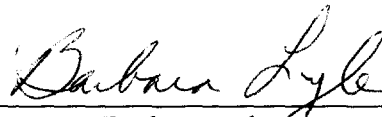
**CERTIFICATE OF SERVICE**

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 21st day of April, 1997, copies of the foregoing Comments and Counterproposal were hand delivered or mailed first-class, postage prepaid, to the following:

John A. Karousos, Chief\*  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 565  
Washington, DC 20554

Ms. Kathleen Scheuerle\*  
Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 565  
Washington, DC 20554

Richard J. Hayes, Esquire  
13809 Black Meadow Road  
Spotsylvania, Virginia 22553  
Counsel for Camdenton Community Broadcasters

  
\_\_\_\_\_  
Barbara Lyle

\* Hand Delivered